

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 1016

INTRODUCER: Regulated Industries Committee and Senator Jones

SUBJECT: Mobile Home Park Tenancies

DATE: February 2, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			CA	
3.			JU	
4.			TA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill requires the Florida Housing Finance Corporation to provide opportunities and develop incentives for mobile home owners to purchase their mobile home park. It provides a Legislative finding that mobile home parks are an essential element of providing affordable housing in the state.

The bill provides mobile home owners with a process for purchase of the mobile home park from which they are to be evicted due to a change in land use. The park owner must give written notice to the homeowners' association of its right to purchase the mobile home park at the price, terms, and conditions set forth in the notice. The homeowners have the right to execute and deliver a contract for purchase of the park to the park owner within 45 days after the mailing of the written notice. The contract must be for the same price and terms and conditions set forth in the written notice. The park owner may require the purchase of other real estate that is contiguous or adjacent to the mobile home park.

The park owner may proceed with the eviction if the park owner and the homeowners' association do not execute the contract within the 45-day period. If the park owner elects to offer or sell the park at a price less than the price specified in the initial written notice, the

homeowners' associations would have the right to an additional 10 days to meet the revised price, terms, and conditions by executing and delivering the revived contract to the park owner.

The bill provides an effective date of July 1, 2010.

This bill substantially amends the following sections of the Florida Statutes: 420.0003, 420.502, 723.061.

II. Present Situation:

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (corporation),¹ is the state entity primarily responsible for encouraging the construction of affordable housing in Florida. The corporation was created in 1997 when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs in Florida by reconstituting the agency as the corporation. The corporation is a public corporation housed within the Department of Community Affairs (DCA) and is a separate budget entity not subject to control, supervision, or direction by the DCA. The corporation is governed by a board of directors comprised of the Secretary of DCA, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.

The corporation operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;
- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The State Housing Initiatives Partnership (SHIP) Program, which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing; and
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance and build workforce housing.

Affordable housing programs are funded from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund, and then used for the various corporation programs.

¹ Formerly the Florida Housing Finance Agency

Mobile Home Act

Chapter 723, F.S., known as the Mobile Home Act, addresses the unique relationship between a mobile home owner and a mobile home park owner. Section 723.004, F.S., provides in part that:

Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exists inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.

In order to evict mobile home owners due to a change in the use of the land on which the mobile home park is located, the park owner is required to give the tenants affected by the change at least six months' notice of the projected change in land use, in order to give tenants time to find other accommodations.² The notice of a change in land use must be in writing and posted on the premises and sent to the mobile home tenant or occupant.³ The mobile home park owner does not have to disclose the proposed land use designation for the park.⁴

In addition to the notice required for a proposed change in the use of land, a park owner must provide notice of filing for a zoning change to each mobile home owner or the directors of the homeowners' association, if one has been established, within five days after submitting the application to the zoning authority.⁵

Local governments and state agencies are prohibited from approving an application for rezoning or taking any other official action that results in the removal or relocation of homeowners from a mobile home park, unless it is first determined whether adequate mobile home parks or other suitable facilities exist for the displaced homeowners.⁶ The term "or other suitable facilities" does not have a statutory definition.

Sale of a Mobile Home Park Mobile Home Owners' Rights

A mobile home park owner who offers his or her park for sale to the general public must notify the officers of the homeowners' association of the offer, asking prices, and the terms and conditions of sale.⁷ The homeowner's right to purchase the park must be exercised by and through a mobile homeowners association created pursuant to ss. 723.075-723.079, F.S.

² Section 723.061(1)(d), F.S.

³ Section 723.061(5), F.S.

⁴ See *Harris v. Martin Regency, Ltd.*, 576 So. 2d 1294, 1296 (Fla. 1991).

⁵ Section 723.081, F.S.

⁶ Section 723.083, F.S.

⁷ Section 723.071(1)(a), F.S.

The mobile homeowners' association must be given 45 days from the date the notice is mailed to meet the price and terms and conditions through the execution of a contract with the park owner. If the homeowners' association and the park owner fail to execute a contract within the 45-day timeframe, the park owner has no further obligation unless he or she agrees to accept a lower price.⁸ However, if the park owner agrees to sell the park at a lower price than specified in the notice to the association, then the homeowners' association has an additional 10 days to execute a contract.⁹

If a mobile home park owner receives an unsolicited offer to purchase the park that he or she wishes to consider or make a counteroffer to, the park owner is required to notify the mobile homeowners' association of the offer and disclose the price and material terms and conditions upon which the park owner would consider selling the park.¹⁰ Although the park owner must consider subsequent offers by the homeowners' association, he or she is free to execute a contract to sell the park to a party other than the association at any time.¹¹

Section 723.071(3)(a), F.S., defines the term "notify" to mean the placing of a notice in the United States mail addressed to the officers of the homeowners' association. The notice is deemed to have been given upon mailing.

Section 723.071(3)(b), F.S., defines the term "offer" to mean any solicitation by the park owner to the general public.

Florida Mobile Home Relocation Corporation

In 2001, the Legislature created the Mobile Home Relocation Program in response to concerns associated with the closure of mobile home parks.¹² The program, which was implemented with the support of the Florida Manufactured Housing Association and the Federation of Manufactured Home Owners of Florida, was codified in ch. 723, F.S.¹³

The Florida Mobile Home Relocation Corporation, established in s. 723.0611, F.S., governs the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park. Specifically, s. 723.0612, F.S., provides for relocation expenses to be paid from the corporation to the mobile home owner. The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or \$3,000 for a single-section mobile home or \$6,000 for a multi-section mobile home, whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.¹⁴

In lieu of collecting moving expenses from the corporation, a mobile home owner may elect to abandon the home and collect payment from the corporation in the amount of \$1,375 for a single

⁸ Section 723.071(1)(b), F.S.

⁹ Section 723.071(1)(c), F.S.

¹⁰ Section 723.071(2), F.S.

¹¹ Section 723.071(2), F.S.

¹² Chapter 2001-227, L.O.F.

¹³ See ss. 723.061-723.0612, F.S.

¹⁴ Section 723.0612(1), F.S.

section mobile home and \$2,750 for a multi-section mobile home.¹⁵ Upon election of abandonment, the mobile home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.¹⁶

The mobile home park owner is required to make payment to the corporation in the amount of \$2,750 per single-section mobile home and \$3,750 per multi-section mobile home for each application for moving expenses due to a change in land use.¹⁷ These payments are due within 30 days after receipt of the invoice from the corporation. There are currently no provisions for late fees if the payments to the corporation are not timely submitted. Payments received by the corporation are deposited in the Florida Mobile Home Relocation Trust Fund.¹⁸ The mobile home park owner is not required to make the payments, nor is the mobile home owner entitled to compensation, if:

- The mobile home owner is moved to another space in the park or to another mobile home park at the park owner's expense;
- The mobile home owner notified the mobile home park owner, before the notice of a change in land use, that he or she was vacating the premises;
- A mobile home owner abandons the home in the park; or
- The mobile home owner had an eviction action filed against him or her prior to the mailing date of the change in the use of land.¹⁹

In addition to the above payments, the mobile home park owners pay a \$1 surcharge on the annual fee that is remitted to the DBPR for each lot within a mobile home park that he or she owns.²⁰ The surcharge payments are deposited in the trust fund and may or may not be imposed depending on the balance in the trust fund. Mobile home owners also contribute to the trust fund through a \$1 surcharge on the decal fee that is remitted to the Department of Highway Safety and Motor Vehicles.

Applications for Funding Moving Expenses

In order to obtain payment for moving expenses, the home owner is required to submit an application for payment to the Florida Mobile Home Corporation, which includes a copy of the notice of change in use and a contract with a moving company for relocation of the mobile home.²¹ The corporation must approve payment within 45 days after receiving the information or the payment is deemed approved. Upon approval, the corporation will issue a voucher in the amount of the contract price for relocating the mobile home, which the moving contractor may redeem upon completion of the move and approval of the relocation by the mobile home owner.²²

¹⁵ Section 723.0612(7), F.S.

¹⁶ Section 723.0612(7), F.S.

¹⁷ Section 723.06116(1), F.S.

¹⁸ Section 723.06116(1), F.S.

¹⁹ Section 723.06116(2), F.S.

²⁰ Section 723.007(1), F.S.

²¹ Section 723.0612(3), F.S.

²² Section 723.0612(3)-(4), F.S.

A mobile home owner whose application for funding that has been approved by the corporation is barred from filing a claim or cause of action under ch. 723, F.S., directly relating to or arising from the proposed change in land use of the mobile home park against the corporation, the park owner, or the park owner's successors in interest.²³ Also, the corporation may not approve an application for funding if the applicant has either filed a claim or cause of action, is actively pursuing such claim or cause of action, or has a judgment against the corporation, the park owner, or the park owner's successors in interest unless the claim or cause of action is dismissed with prejudice.²⁴

III. Effect of Proposed Changes:

Florida Housing Finance Corporation

The bill creates s. 420.003(4)(e), F.S., to require the Florida Housing Finance Corporation to provide opportunities and develop incentives for mobile home owners to purchase their mobile home park.

The bill creates s. 420.502(9), F.S., to provide a Legislative finding that mobile home parks are an essential element of providing affordable housing in the state.

Mobile Home Owners Right to Purchase Mobile Home Park

The bill amends s. 723.061(1)(d), F.S., to provide mobile home owners with a process for purchase of the mobile home park from which they are to be evicted due to a change in land use. The park owner could not evict the homeowners from the park due to a change of land use unless he or she followed the process set forth in the bill.

The process provided in s. 723.061(1)(d), F.S., is identical to the process for sale of a mobile home park in s. 723.071, F.S., for when the park owner offers the park for sale. The process differs because it requires the park owner to offer the park for sale to the homeowners' association if his or her intention is only to change the land use designation for the property on which the park is located and not to sell the property.

The bill requires the park owner to give written notice to the homeowners' association of the homeowners' right to purchase the mobile home park at the price, terms, and conditions set forth in the notice. The homeowners must have formed a homeowners' association pursuant to ss. 723.075-723.079, F.S.

The written notice must be provided to the officers of the homeowners' association. The bill gives the homeowners the right to execute and deliver a contract for purchase of the park to the park owner within 45 days after the mailing of the written notice. The contract must be for the same price and terms and conditions set forth in the written notice.

²³ Section 723.0612(9), F.S.

²⁴ *Id.*

The conditions in the notice may require the purchase of other real estate that is contiguous or adjacent to the mobile home park.

If the park owner and the homeowners' association do not execute the contract within the 45 – day period, the park owner is no longer obligated to comply with the process in s. 723.061(1)(d), F.S., and may proceed with the eviction. The bill references the park owner's obligation as “her or his” obligation. However, if the park is owned by a business entity, it is not clear whether the intent of the provision is to be limited to natural persons.

If the park owner elects to offer or sell the park at a price less than the price specified in the initial written notice, the homeowners' association would have the right to an additional 10 days to meet the revised price, terms, and conditions by executing and delivering the revised contract to the park owner.

The bill creates s. 723.061(1)(d)1.c., F.S., to clarify that ss. 723.061(1)(d) and 723.071, F.S.,²⁵ do not obligate the park owner to provide any further notice to or to negotiate with the homeowners' association for the sale of the mobile home park to the homeowners' association after 6 months from the date of mailing the initial notice.

The bill amends s. 723.061(1)(d)2., F.S., to provide that the 6-month notice of eviction must be given to the affected mobile home owners. It deletes the current requirement that the notice must be to all the tenants affected by the eviction.

The bill creates s. 723.061(1)(d)2., F.S., to provide that the notice of eviction due to change in land use may be given at the same time as, or after the notice of a right to purchase, is provided to the affected home owners.

The bill amends s. 723.061(5), F.S., to exempt the written notice that must be provided to the officers of the homeowners' association under s. 723.061(1)(d), F.S., from the requirement that any notices required by s. 723.061, F.S., must be in writing, posted on the premises, and sent to the mobile home owner, tenant, or occupant, as appropriate, by certified or registered mail, return receipt requested, addressed to the mobile home owner and tenant or occupant, as appropriate, at her or his last known address.

Effective Date

The bill provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁵ Section 723.071, F.S., provides procedures for the notification and offer to a mobile homeowners association when a park owner desires to sell the mobile home park.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 723.061(1)(d), F.S., (**on line 113**) references the park owner's obligation as "her or his" obligation. However, if the park is owned by a business entity, it is not clear whether the intent of the provision is to be limited to natural persons. However, the "he or she" pronouns are used in ch. 723, F.S., in reference to the park owner.

VII. Related Issues:

According to the Florida Housing Finance Corporation, the corporation's major funding programs do not provide financing for the purchase of mobile home parks.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on February 2, 2010:

The committee substitute (CS) corrects a scrivener's error in s. 723.061(1)(d)1., F.S., by changing the term "their" to "its" in regards to the homeowners' association's right to purchase the mobile home park.

The CS does not amend s. 723.061(3), F.S., to prohibit the application of s. 723.083, F.S., to the provisions of s. 723.061(1)(d), F.S.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
